THE HON'BLE DR. JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 13979 of 1994

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DATED: 17.11.2005

Between:

The Singareni Coal Mines Karmika Sangh (BMS),

Bellampalli Branch, Bellampally.

... PETITIONER

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AND

The Government of India, Ministry of Labour,

New Delhi, rep., by its Secretary & another.

... RESPONDENTS

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THE HON'BLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13979 of 1994

ORDER:-

This writ petition is filed by the petitioner Union seeking to declare the proceedings L.No.22012/272/93-IR(C-II), dated 24.03.1994, of the respondents in not referring the dispute to the Industrial Tribunal for adjudication, as illegal,

arbitrary and unjust and consequently direct the 1st respondent to refer the matter for adjudication to the Industrial Tribunal.

The petitioner Union represents two workmen viz., B.Kumaraswamy and K. Raji Redddy. The petitioner Union is contending that though the two workmen are eligible for regularization, the 2nd respondent is not regularizing their services. Therefore, they requested the 1st respondent to refer the matter to the Industrial Tribunal for adjudication. The 1st respondent through proceedings, dated 24.03.1994, decided not to refer the dispute for adjudication to Industrial Tribunal by making the following observation:

> "A workman can be promoted to the next higher grade only when he is eligible for promotion and a vacancy exists in that next grade. Therefore, the Central Government have decided not to refer the above dispute for adjudication."

The learned counsel for the petitioner submitted that the 1st respondent is entitled to refuse referring the matter for adjudication on the ground that it is a stale claim or that there is no dispute to be adjudicated by the Industrial Tribunal. He further contended that the workmen are eligible in all respects to get regularization of their services and as the 2nd respondent did not consider their cases for regularization, there arose an Industrial dispute, which has to be adjudicated by the Industrial Tribunal.

Whether the workmen are eligible for regularization in terms of the rules and regulations in force and whether the 2nd respondent failed to consider their cases despite their eligibility for regularization are the issues to be adjudicated by the Industrial Tribunal. Therefore, it may be appropriate to direct the 1st respondent to once again consider the request of the petitioner Union and pass appropriate orders recording their request to refer the matter to Industrial Tribunal for adjudication.

In the result, the writ petition is allowed by setting aside the impugned order. However, the 1st respondent is directed to once again consider the request of the petitioner Union and pass appropriate orders recording their request to refer the matter to Industrial Tribunal for adjudication of the dispute. No order as to costs.

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18.11.2005

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